

receipt of the application. If an applicant cannot provide an SSN at application, the agency must request the information at the next available opportunity after receiving the SSN.

(c) The agency must request the information required in paragraph (a) of this section by SSN, using each SSN furnished by the individual or received through verification.

(d) *Exception:* In cases where the individual is institutionalized, the agency needs to obtain and use information from SWICA only during the application period and on a yearly basis, and from unemployment compensation agencies only during the application period. An individual is institutionalized for purposes of this section when he or she is required to apply his or her income to the cost of medical care as required by §§ 435.725, 435.733, and 435.832.

(e) *Exception: Alternate sources.* (1) The Secretary may, upon application from a State agency, permit an agency to request and use income information from a source or sources alternative to those listed in paragraph (a) of this section. The agency must demonstrate to the Secretary that the alternative source(s) is as timely, complete and useful for verifying eligibility and benefit amounts. The Secretary will consult with the Secretary of Agriculture and the Secretary of Labor before determining whether an agency may use an alternate source.

(2) The agency must continue to meet the requirements of this section unless the Secretary has approved the request.

(f) *Exception:* If the agency administering the the AFDC program, or SSA under section 1634 of the Act, determines the eligibility of an applicant or recipient, the requirements of this section do not apply to that applicant or recipient.

§ 435.952 Use of information.

(a) Except as provided under § 435.953, the agency must review and compare against the case file all information received under §§ 435.940 through 435.960 to determine whether it affects the applicant's or recipient's eligibility or amount of medical assistance payment. The agency also must independently

verify the information if required by § 435.955 or if determined appropriate by agency experience.

(b) For applicants, if the information is received during the application period, it must be used, to the extent possible, making eligibility determinations. If it is received after the eligibility determination, it must be used as specified for recipients in paragraphs (c) and (d) of this section.

(c) Except as specified in § 435.953 of this subpart and paragraph (d) of this section, for recipients, the agency must, within 45 days of receipt of an item of information, request verification (if appropriate), determine whether the information affects eligibility or the amount of medical assistance payment, and either initiate a notice of case action to advise the recipient of any adverse action the agency intends to take or make an entry in the casefile that no further action is necessary.

(d) Subject to paragraph (e) of this section, if the agency does not receive requested third party verification within the 45-day period after receipt of information, the agency may determine whether the information affects eligibility or correct amount of medical assistance payment after the 45-day period. However, the agency must make any delayed determinations permitted under this paragraph—

(1) Promptly, as required by § 435.916, if the verification is received before the next redetermination; or

(2) In conjunction with the next redetermination if no verification is received before that redetermination.

(e) The number of determinations delayed beyond 45 days from receipt of an item of information (as permitted by paragraph (d) of this section) must not exceed twenty percent of the number of items of information for which verification was requested.

(f) The agency must use appropriate procedures to monitor the timeliness requirements of this section.

(g) The requirements of this section do not relieve the agency of its responsibility for determinations of erroneous payments or the agency's liability for

those erroneous payments, as defined in subpart P of part 431 of this chapter.

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§ 435.953 Identifying items of information to use.

(a) With respect to information received on recipients under §§ 435.940 through 435.960, the agency may either review and compare against the case file all items of information received or it may identify (target) separately for each data source the information items that are most likely to be most productive in identifying and preventing ineligibility and incorrect payments.

(b) An agency that wishes to exclude categories of information items must submit for the Secretary's approval a follow-up plan describing the categories that it proposes to exclude. For each category, the agency must provide a reasonable justification that follow-up is not cost-effective; a formal cost/benefit analysis is not required.

(c) If an agency receives an item of unemployment compensation information from the Internal Revenue Service or earnings information from SSA that duplicates an item of information previously received from another source and followed up, the agency may exclude that information item without justification.

(d) An agency may submit a follow-up plan or alter its plan at any time by notifying the Secretary and submitting the necessary justification. The Secretary approves or disapproves categories of items to be excluded under the plan within 60 days of its submission. The categories approved by the Secretary constitute an approved agency follow-up plan for IEVS.

[54 FR 8742, Mar. 2, 1989]

§ 435.955 Additional requirements regarding information released by a Federal agency.

(a) Unless waived under paragraph (d) of this section, based on information received from a computerized data match in which information on an individual is provided to the agency by a Federal agency, the agency may not terminate, deny, suspend, or reduce

medical assistance to that individual until it has taken appropriate steps to verify the information independently. The agency must independently verify information relating to—

(1) The amount of the income and resource that generated the income involved;

(2) Whether the applicant or recipient actually has (or had) access to the resource or income (or both) for his or her own use;

(3) The period or periods when the individual actually has (or had) access to the resource or income or both.

(b) The agency must verify the information by either

(1) Requesting the entity from which the information originally came to verify the fact and amount of income or resource; or

(2) Sending the applicant or recipient a letter informing that individual of the information received and asking him or her to respond within a specified period. The letter must clearly explain the information the agency has and its possible relevance to the individual's past or future eligibility, and be as neutral in tone as possible.

(c)(1) If the original source of the income or resource or the applicant or recipient verifies the information, and the agency intends to reduce, suspend, terminate or deny medical assistance based on the information, the agency must send the applicant or recipient a notice of the action to be taken and include information on the right to appeal and opportunity for a hearing under §§ 431.200 through 431.246 of this chapter (see also § 435.912 and § 435.919).

(2) If the applicant or recipient fails to respond after reasonable attempts to contact him or her, the agency must proceed to deny, terminate, reduce or suspend medical assistance based on the applicant's or recipient's failure to cooperate.

(3) If the applicant or recipient disputes the information, the agency must obtain evidence (from the source of the data, applicant, recipient, or otherwise) to substantiate any negative case action it may take.

(d) The independent verification requirement concerning a category of data received from a Federal benefit agency may be waived if the Federal